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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,429	07/31/2001	Ian J. Sherlock	TI-30293	4195
23494	7590	08/09/2005	EXAMINER KUMAR, PANKAJ	
TEXAS INSTRUMENTS INCORPORATED P O BOX 655474, M/S 3999 DALLAS, TX 75265			ART UNIT 2631	PAPER NUMBER

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/919,429

**Applicant(s)**

SHERLOCK, IAN J.

**Examiner**

Pankaj Kumar

**Art Unit**

2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,8,10 and 16-21 is/are rejected.
- 7) ☒ Claim(s) 2-7,9 and 11-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed have been fully considered but they are not persuasive.
2. Applicant argues that McHale does not describe structure of the DSL modem used in the modem pool and hence McHale does not teach claim 1. This is not persuasive since McHale describes the structure as stated in the prior action.
3. Applicant argues that McHale does not teach DSL modem. This is not persuasive since McHale teaches DSL modems in for example col. 2 line 7 with "XDSL modem". Col. 1 lines 42 in McHale teaches "digital subscriber line (XDSL)".
4. Applicant argues that McHale does not teach detecting whether DSL service exists. It was stated in the prior action that McHale does not teach detecting whether DSL service exists; however, it was pointed out that Liu teaches detecting whether DSL service exists and it would have been obvious to one skilled in the art at the time of the invention to modify McHale in view of Liu as discussed in the prior action.
5. Applicant argues that McHale does not need to detect DSL service on the incoming lines since McHale is directed towards overbooking DSL lines and assigning a modem based on a request for service and therefore there is no motivation to combine McHale with Liu. This is not persuasive since by McHale overbooking DSL lines and then assigning a modem based on a request for service, McHale would want to verify that DSL service exists to customers that have requested DSL service rather than getting a call from a customer complaining that they still do not have DSL service.

Art Unit: 2631

6. Applicant argues that the combination of McHale and Liu does not change the function of McHale since it only duplicates its own function of separating voice/data without any additional functionality. This is not persuasive since McHale detects request for DSL service and Liu detects DSL service. These are complementary in not only that they are separating voice and data but also in that after McHale detects a request for DSL service, it would be efficient for McHale to make sure that DSL service that was requested by a customer now exists rather than getting a complaint call from the customer saying that they requested DSL service and they do not have it and McHale not being able to know whether the DSL service is now provided.

***Response to Amendment***

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 8, 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over McHale USPN 6014431 in view of Liu USPN 6349096. See prior action for details.

9. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over McHale USPN 6014431 in view of Liu USPN 6349096 as applied to claim 1 above, and further in view of Erikson USPN 6826174. See prior action for details.

Art Unit: 2631

10. Claims 10, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over McHale USPN 6014431 in view of Liu USPN 6349096 as applied to claim 1 above, and further in view of Bingel USPN 6744883. See prior action for details.

***Allowable Subject Matter***

11. Claims 2-7, 9, 11-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2631

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pankaj Kumar whose telephone number is (571) 272-3011. The examiner can normally be reached on Mon, Tues, Thurs and Fri after 8AM to after 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mohammad H. Ghayour can be reached on (571) 272-3021. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Pankaj Kumar  
Patent Examiner  
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PK

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SUPERVISORY PATENT EXAMINER